

REMARKS

Claims 22-127 are pending in the Application. Claims 40-53 and 68-127 were rejected and claims 22-39 and 54-67 were allowed in the Office action mailed July 14, 2009. No claims are amended by this response. Claims 22, 40, 54, 68, 83, 98, and 113 are independent claims, while claims 23-39, 41-53, 55-67, 69-82, 84-97, 99-112, and 114-127 depend, respectively, from claims 22, 40, 54, 68, 83, 98, and 113. Applicants respectfully request reconsideration of claims 40-53 and 68-127, in light of the remarks that follow.

Applicants express their appreciation to Examiner John Pezzlo for recognition of the patentable subject matter of claims 22-39 and 54-67.

The Applicants note that a stated goal of patent examination is to provide a prompt and complete examination of a patent application. See M.P.E.P. §2106(II). Applicants therefore assume, based on the goals of patent examination set forth by the Office, that the current Office Action sets forth "all reasons and bases" for rejecting the claims.

Applicants again respectfully note that no claims are amended by this response. Therefore, no new issues are raised that would necessitate a new search.

Rejections of Claims

Claims 40-53 and 68-127 were rejected on the ground of non-statutory, obviousness-type double patenting as being unpatentable over claims 1, 3, 6, and 7 of U.S. Patent No. 6,389,010.

Applicants do not agree with the Examiner's rejection, but nevertheless are submitting a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(c), disclaiming the terminal part of this application that extends beyond the expiration date of commonly owned U.S. Patent No. 6,389,010, to obviate the double patenting rejection. Applicants respectfully submit that the obviousness-type double patenting rejection is overcome.

Conclusion

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully remind the Examiner that U.S. Patent 6,389,010 cited in the non-statutory, obviousness-type double patenting rejection of claims 40-53 and 68-127 is presently under re-examination (Control No. 90/008,938.) Applicants will respond to the final Office action mailed on June 17, 2009 in that reexamination proceeding on or before August 17, 2009, and believe that such response will overcome the final rejection.

Applicants believe that all of pending claims 22-127 are in condition for allowance.

The Commissioner is hereby authorized to charge any fees required by this submission, or to credit any overpayments to the Deposit Account of McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017

Should the Examiner disagree or have any questions regarding this submission, the Applicants invite the Examiner to telephone the undersigned at (312) 775-8000.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: August 5, 2009
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